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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

BARRY ALLEN GABELMAN,

Defendant.

Case No. 2:20-mj-16-NJK

Stipulation to Continue Preliminary Hearing

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich, United States Attorney, and Bianca R. Pucci, Assistant United States Attorney, counsel for the United States of America, and Rene L. Valladares, Federal Public Defender, and Heidi A. Ojeda, Assistant Federal Public Defender, counsel for Barry Allen Gabelman, that the preliminary hearing currently scheduled February 2, 2020, be vacated and set to a date and time convenient for this court but no earlier than seven (7) days.

The Stipulation is entered into for the following reasons:

1. The additional time requested herein is not sought for purposes of delay, but to permit counsel for the government to determine if the case will be presented to the Grand Jury or if the case will proceed to preliminary hearing. This additional time is sought due to the

unforeseen circumstances of the Lloyd D. George Courthouse being closed with limited access during the week of January 27, 2020.

2. The additional time requested herein is also sought to permit defendant time to review discovery and conduct investigation in this case in order to determine whether there are any issues that must be litigated prior to the case proceeding to preliminary hearing or otherwise.

3. The defendant is incarcerated and does not object to the continuance.

4. The parties agree to the continuance.

5. The additional time requested herein is not sought for purposes of delay, but merely to allow counsel for the government to effectively determine whether to proceed to Grand Jury or preliminary hearing. It also is sought to allow counsel for the defendant sufficient time within which to be able to effectively and complete investigation of the discovery materials provided.

6. Denial of this request for continuance would waste limited judicial resources.

7. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this stipulation is excludable in computing the time within which the preliminary hearing herein must commence pursuant to the Federal Rules of Criminal Procedure 5.1(d), and the Speedy Trial Act, § 3161(h)(7)(A), considering the factors under Title 18, United States Code §§ 3161(h)(7)(B)(i) and (iv).

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1 This is the First Stipulation to continue filed herein.

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3 DATED: January 31, 2020

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5 RENE L. VALLADARES
6 Federal Public Defender

NICHOLAS A. TRUTANICH
United States Attorney

7 */s/ Heidi A. Ojeda*

/s/ Bianca R. Pucci

8 By_____

By_____

9 HEIDI A. OJEDA
10 Assistant Federal Public Defender
Attorney for Barry Allen Gabelman

BIANCA R. PUCCI
Assistant United States Attorney

5. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excusable in computing the time

1 within which the trial herein must commence pursuant to the Federal Rules of Criminal
2 Procedure 5.1(d), and the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A),
3 considering the factors under Title 18, United States Code, Section 3161(h)(7)(B)(i), (iv).

4 **CONCLUSIONS OF LAW**

5 The ends of justice served by granting said continuance outweigh the best interest of the
6 public and the defendant in a speedy trial, since the failure to grant said continuance would be
7 likely to result in a miscarriage of justice.

8 The continuance sought herein is excusable under the Federal Rules of Criminal
9 Procedure 5.1(d), and the Speedy Trial Act, title 18, United States Code, Section § 3161
10 (h)(7)(A), when the considering the factors under Title 18, United States Code, §
11 3161(h)(7)(B)(i), (iv).

12 **ORDER**

13 **IT IS THEREFORE ORDERED** that the parties' stipulation is GRANTED. Docket No.
14 14. The preliminary hearing in the matter is continued to February 11, 2020, at 4:00 p.m.

15 DATED this 31st day of January, 2020.

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19 UNITED STATES MAGISTRATE JUDGE
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